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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,068	11/21/2003	Andrew Leslie Paxie	SYMAP026	9132

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EXAMINER

DUDEK JR, EDWARD J

ART UNIT	PAPER NUMBER
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2186

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/18/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/719,068

Applicant(s)

PAXIE ET AL.

Examiner

Edward J. Dudek

Art Unit

2186

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-9 and 14-18 is/are rejected.
- 7) ☒ Claim(s) 2-3, and 10-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 06/08/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This Office Action is responsive to the application filed on 21 November 2003.

Claims 1-18 have been presented for examination.

Specification

The disclosure is objected to because of the following informalities:

Page 8, line 3 refers to the block device driver as element 108, when it is element 100.

Page 12, line 8 refers to the partition as element 220, when is it element 270.

Appropriate correction is required.

Claim Objections

Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The limitations of claim 1 allocate the additional sectors to the new partition area that have subsequently become available.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "the designated truncated partition area" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-9, 14, and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Murray et al (U.S. Patent #6,330,653).

Referring to claims 1 and 17-18: Murray teaches a method of creating a new partition including initially allocating initially available sectors in a designated new partition area of a source partition to the new partition (see column 4, lines 34-35); and subsequently allocating additional sectors in a designated new partition area of the source partition to the new partition area that have subsequently become available (see column 42, lines 50-58, and column 39, lines 33-61, *users are able to delete partitions to create free space, then merge that free space into an adjacent partition*).

Referring to claim 4: subsequently allocating occurs when sectors become available (see column 39, lines 33-61).

Referring to claims 5-7 temporarily allocating sectors outside the designated new partition area to substitute for unavailable sectors in the designated new partition area (see column 4, lines 35-36).

Referring to claim 8: some sectors in the designated partition area are not allocated initially because they are unavailable and subsequently allocating includes temporarily allocating sectors outside the designated new partition area to substitute for unavailable sectors in the designated new partition area (see column 4, lines 35-36).

Referring to claim 9: a new partition allocation process (see column 4, lines 34-36) and a new partition simulation process (see column 6, lines 35-52).

Referring to claim 14: the new partition includes additional free space to the right of the source partition (see column 39, lines 33-45, *the default growth of the partition is to the right*).

Referring to claim 16: realizing the new partition (see column 39, lines 45-61).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over PartitionMagic.

Referring to claims 1 and 17: PartitionMagic teaches a method of creating a new partition, including initially allocating initially available sectors in a designated new

partition area of a source partition to the new partition (see page 1, paragraph 5, *the program allows the users to create partitions*); and subsequently allocating sectors in the designated new partition area of the source partition to the new partition (see page 1, paragraph 7, *the user was able to reduce the size of the primary partition, then increase the size of the extended partition because addition sectors had become available*).

Referring to claim 4: subsequently allocating occurs when sectors become available (see page 1, paragraph 7, *once more sectors became available by reducing the size of the primary partition, the user then allocated them to the extended partition*).

Referring to claim 16: realizing the new partition (see page 1, paragraph 7).

Allowable Subject Matter

Claims 2-3, and 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Dudek whose telephone number is 571-270-1030. The examiner can normally be reached on Mon thru Thur 7:30-5:00pm Sec. Fri 7:30-4 pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Kim can be reached on 571-272-4182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Edward Dudek
December 6, 2006



PIERRE BATAILLE
PRIMARY EXAMINER
12/08/06